



February 14, 2017

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: NOTICE OF EX PARTE
WT Docket No. 10-208: *Universal Service Reform – Mobility Fund*
WC Docket No. 10-90: *Connect America Fund*

Dear Ms. Dortch,

On February 10, 2017, Rural Wireless Association, Inc. (“RWA”) General Counsel Carri Bennet and Regulatory Counsel Erin Fitzgerald had conference calls with Jay Schwarz, Acting Wireline Advisor to Chairman Pai, and Amy Bender, Wireline Legal Advisor to Commissioner O’Rielly. RWA staff was briefed on Mobility Fund Phase II (“MFII”) proposals.

On February 13, 2017, RWA representatives (listed in Appendix A) met with Nicholas Degani, Senior Counsel to Chairman Pai; Jay Schwarz, Acting Wireline Advisor to Chairman Pai; and Rachael Bender, Acting Wireless Advisor to Chairman Pai. Those same representatives also met with Claude Aikin, Wireline Legal Advisor to Commissioner Clyburn; Amy Bender, Wireline Legal Advisory to Commission O’Rielly; and staff from the Wireless Telecommunications (“WTB”) and Wireline Competition Bureaus (listed in Appendix B) in separate meetings. At these meetings, RWA discussed its support for the creation of a mechanism that will sustain and advance the availability of mobile services in high-cost areas. RWA discussed several MFII issues including those regarding expected timelines, funding eligibility determinations, the transition of existing support, and service requirements.

Area Eligibility. RWA expressed its concern that the proposed MFII area eligibility standard is areas without unsubsidized LTE service at a speed of 5/1Mbps, while the buildout standard will be 10/1 Mbps. There should not be two separate standards. A 5/1 eligibility threshold, based on unreliable (and often inflated) coverage data, will render a large portion of rural America ineligible for MFII funding. RWA shared maps (attached as Exhibit 1) comparing areas considered “covered” at 10/1 versus a much larger area considered “covered” at 5/1. If the 5/1 standard is used in conjunction with the current transition proposal, rural carriers receiving support and providing service at 10/1 speeds will have their funding flash cut – and may have to turn down service. This will leave rural consumers with no choice but to accept *worse* service from unsubsidized providers, with no competition to prompt network improvements over time

and no guarantee of another Mobility Fund auction to improve service to the 10/1 speed ultimately required of MFII winners.

Coverage Data and Challenge Process. RWA expressed its continued concern about the lack of a common coverage standard governing Form 477 data. Current Form 477 data is based on advertised service speeds, and each provider relies upon different assumptions for their RF propagation shape files. RWA again urged the Commission to adopt a thorough challenge process applied to improved Form 477 data, and cautioned that failing to do so will result in incorrect eligibility determinations and render the challenge process prohibitively expensive, nearly impossible to undertake, and ultimately ineffective. RWA has proposed using a field strength measurement (50/57 dBµV/m signal strength, which equates to a -85 dBm using propagation maps) to ensure coverage is reported uniformly, and in such a way that it can be properly analyzed.¹

Nevertheless, discussions with Commission staff indicate that the MFII proposal will go forward with current data, and that the challenge process will be used to improve upon it. In such a case, RWA urges the Commission to consider challenge process specifics via a public notice that seeks comment from interested parties, rather than delegate this task to Bureau staff. If the challenge process is, in fact, going to improve the Form 477 data, carriers must be able to participate meaningfully to vet the process used. The process cannot be prohibitively expensive, and must not be rushed. The draft's current requirement that a subsidized carrier demonstrate unsubsidized coverage is not LTE at 5/1 speed by a "preponderance of the evidence" imposes a hardship on rural carriers with limited resources. FCC staff encouraged RWA to respond to a proposal that had been filed by AT&T Services, Inc., Atlantic Tele-Network, Inc., and Buffalo-Lake Erie Wireless Systems Co. on February 9,² stating that this challenge process proposal was a stake in the ground. RWA stated that the administrative procedures process requires a more formal methodology than simply responding to proposals put forward by parties a week prior to sunshine that had not been adequately presented for public comment. This lack of due process fails to satisfy the Administrative Procedures Act by disallowing proper notice and comment. RWA expressed concern that failure to follow proper administrative processes would result in a MFII implementation delay.

CDMA/GSM Incompatibility. RWA noted that it understands the desire to target MFII support to areas where mobile service cannot be provided without high-cost support and to avoid duplicative funding. However, it again urged the Commission to determine areas eligible for support where an unsubsidized GSM or CDMA carrier provides service and VoLTE (and VoLTE devices) is not available. Further, the FCC should recognize that support for both a CDMA and GSM carrier in an area where there is not an unsubsidized carrier and VoLTE is not

¹ [Letter](#) to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc., WT Docket No. 10-208, WC Docket No. 10-90 (Oct. 20, 2016) ("*RWA October Ex Parte*").

² [AT&T Services, Inc., Atlantic Tele-Network, Inc., and Buffalo-Lake Erie Wireless Systems Co. Revised Joint Proposal for Mobility Fund Phase II](#), WT Docket No. 10-208, WC Docket No. 10-90 (Feb. 9, 2017).

available is not duplicative. Where VoLTE is not deployed and only one of the two technologies is available, half of consumers nationwide will be left without access to voice service or emergency services in those areas.

RWA does not believe this issue is applicable to a significant portion of the country – RWA is aware of four rural wireless carriers that would be impacted.³ However, this issue *is* significant to all consumers living in and visiting these affected areas as they will lose access to voice service and public safety communications in an emergency. RWA urges the Commission to consider these areas eligible for MFII and preservation of service support, and re-evaluate VoLTE deployment in five years. Such re-evaluation would be similar to the Alaska Plan in which funding for mobile participants will be reviewed at the halfway mark to ensure that any overlap of 4G LTE service does not result in duplicative funding.⁴ While this problem *is* one that will be solved with technological improvements and VoLTE deployment, the Commission’s current schedule *does not* provide the necessary time for such improvements and deployment to occur.

Support Disaggregation. RWA briefly discussed issues surrounding support disaggregation, and expressed concern that it is unclear how support disaggregation will work in practice. RWA encouraged the Commission to deal with this issue via a public notice inviting comment, given that specific proposals regarding disaggregation of support in the MFII context have not been previously addressed in this proceeding and doing so without such comment would violate due process.

Support Transition. The proposed transition is inadequate to protect the needs of rural consumers. First, the planned legacy support flash cut in areas determined to be ineligible for the reverse auction will eliminate competition, harm economic development, and endanger public safety – particularly in areas impacted by the CDMA/GSM incompatibility. The *USF/Transformation Order* called for a phase-down of legacy support over a period of years, and provided that there should be a “halt” in this phase-down as of June 30, 2014 until MFII was operational.⁵ Rural carriers have budgeted and made strategic plans with the understanding that they would continue to receive phased-down support after the halt pursuant to the

³ See, e.g., [Notice of Ex Parte Presentation of Panhandle Telephone Cooperative, Inc.](#), WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208 (Dec. 17, 2014).

⁴ [Report and Order and Further Notice of Proposed Rulemaking](#), *Connect America Fund, et. al.*, WC Docket No. 10-90 *et. al.*, ¶¶ 92-94 (rel. Aug. 31, 2016) (stating “We will maintain the support levels we adopt today for the first five years of the term to spur 4G LTE deployment...To address the potential for duplicative support over time, however, we will evaluate whether there is any overlap in subsidized 4G LTE coverage areas in the fifth year, with the expectation of eliminating any such duplicative support during the second half of the Plan’s 10-year term.”).

⁵ *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, [26 FCC Rcd 17828](#), ¶ 519 (Nov. 18, 2011) (“*USF/ICC Transformation Order*”).

USF/Transformation Order. The argument that carriers have received frozen legacy funding, and therefore should not be surprised and/or negatively impacted by this flash cut, is disingenuous. First, such an argument inaccurately assumes that carriers have merely pocketed such funds, instead of strategically using them to build state-of-the-art mobile wireless networks that serve American consumers, drive economic development, and protect public safety. Second, carriers received this funding because *the Commission* was undecided as to how to best implement MFII – not because of any wrongdoing on their part. Residents of, and visitors to, rural America should not be forced to bear the service disruptions that would result from an unwarranted flash cut.

Instead, RWA urges adoption of a longer transition in all areas. In ineligible areas or eligible areas where a supported carrier does not win, RWA urges adoption of a true, five-year transition:

- January 1, 2018- 100% of current funding (60% legacy funding level)
- January 1, 2019- 80%
- January 1, 2020- 60%
- January 1, 2021- 40%
- January 1, 2022- 20%
- January 1, 2023- 0%

This gradual step-down approach will allow non-winning bidders to seek replacement funding, scale back their service, or exit the business without the massive disruption a flash cut would cause. If, as is proposed, the transition remains tied to specific dates, RWA urges the Commission to include a mechanism that would again halt the phase down if MFII implementation is delayed past January 1, 2018. A delay would mean that the funding from the auction funding is not available by June 30, 2018.

In support-eligible areas where there is no winner, RWA supports the extension of “preservation of service funding.” Under no circumstance should legacy support be eliminated if it would result in 2G, 3G, or LTE being turned off if such turn off would leave an area entirely without mobile service.

Pursuant to Section 1.1206 of the FCC’s Rules, 47 C.F.R. § 1.1206, this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

/s/ Caressa D. Bennet

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Appendix A

	<u>Title</u>	<u>Company</u>
Carri Bennet	General Counsel	Rural Wireless Association
Erin Fitzgerald	Regulatory Counsel	Rural Wireless Association
Brian Woody	Chief Customer Relations Officer	Union Wireless
Chris Reno	Director of Accounting	Union Wireless
Todd Houseman	General Manager	United Wireless
Lynn Merrill	President	Monte R. Lee & Company Consulting Engineers

Appendix B

Jim Schlichting – WTB
Paroma Sanyal – WTB
Charles Eberle – WTB
Alexander Minard – WCB
Ryan Palmer – WCB

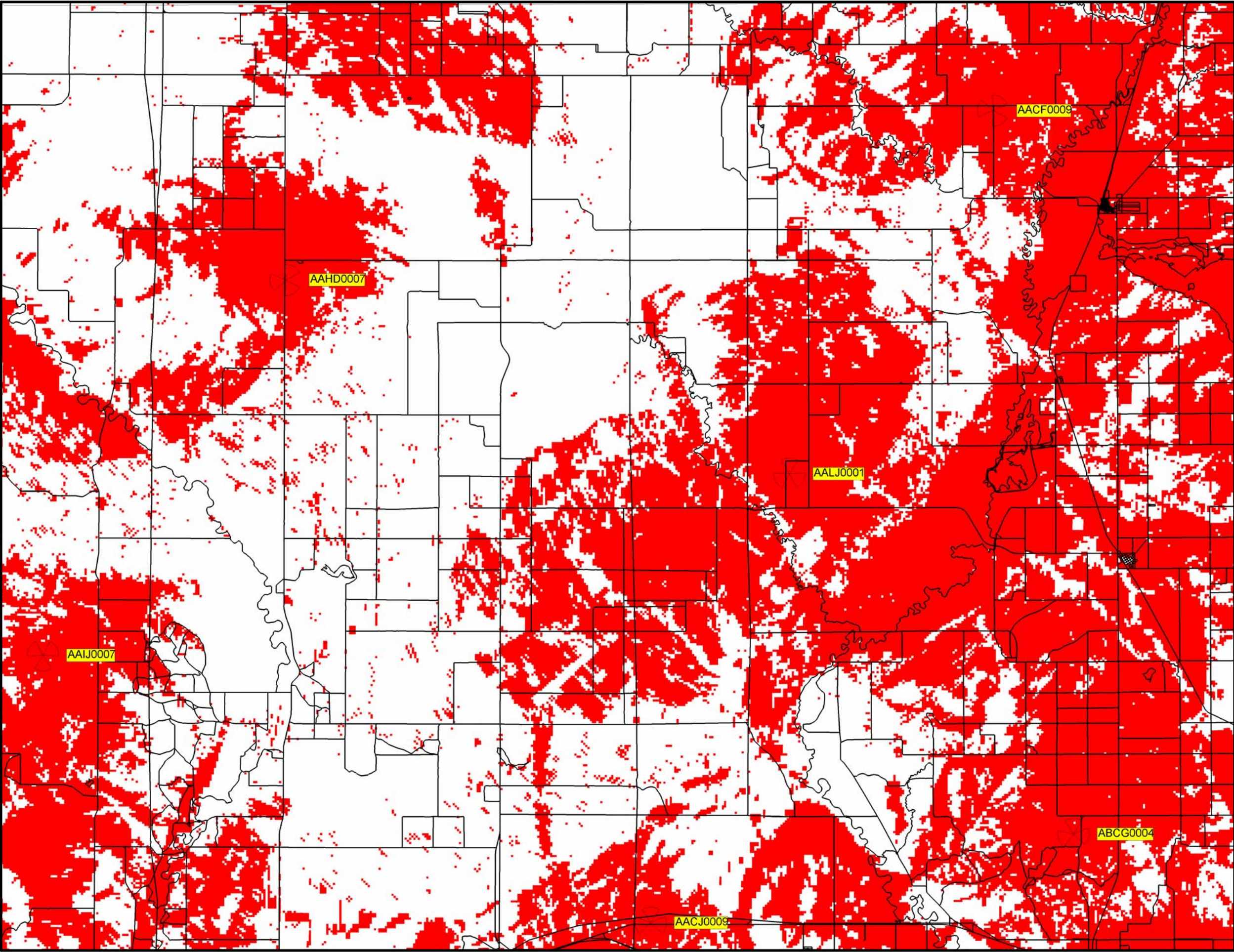
Exhibit 1

Census Block Area Coverage Analysis Based on Signal Level

Census Block Area Coverage Analysis

Based on Signal Level

			Based on -85 dBm Coverage					Based on -90 dBm Coverage				
	Total Blocks in Study Area	Total Coverage Area Sq Miles	Total blocks with coverage	Percent of Blocks with Coverage Based on Total Blocks	Percent of Blocks with Coverage Based on Blocks Covered	Area Covered Sq Miles	Percent of Total Area	Total blocks with coverage	Percent of Blocks with Coverage Based on Total Blocks	Percent of Blocks with Coverage Based on Blocks Covered	Area Covered Sq Miles	Percent of Total Area
Census Blocks	661	1,439	617	93.3%		553.6	38.5%	642	97.1%		787.4	54.7%
Percent of Area Covered Inside Blocks												
95%			222	33.6%	36.0%	72.4	5.0%	317	48.0%	49.4%	175.0	12.2%
90%			254	38.4%	41.2%	114.3	7.9%	353	53.4%	55.0%	249.7	17.4%
85%			280	42.4%	45.4%	154.3	10.7%	375	56.7%	58.4%	285.5	19.8%
80%			300	45.4%	48.6%	182.7	12.7%	403	61.0%	62.8%	369.4	25.7%
75%			320	48.4%	51.9%	230.9	16.1%	418	63.2%	65.1%	421.7	29.3%
70%			334	50.5%	54.1%	251.0	17.4%	440	66.6%	68.5%	486.7	33.8%
65%			348	52.6%	56.4%	268.0	18.6%	462	69.9%	72.0%	522.6	36.3%
60%			371	56.1%	60.1%	305.9	21.3%	476	72.0%	74.1%	561.4	39.0%
55%			389	58.9%	63.0%	338.3	23.5%	493	74.6%	76.8%	574.6	39.9%
50%			405	61.3%	65.6%	376.9	26.2%	510	77.2%	79.4%	598.9	41.6%



EDX® SignalPro®: Sample Coverage

Prop. model 1: Anderson-2D v1.00
Time: 95.0% Loc.: 95.0%
Prediction Confidence Margin: 0.0dB
Climate: Continental Temperate
Land use (clutter): EDX .GCV format
Atmospheric Abs.: none
K Factor: 1.333

Census Blocks

Received Power at remote

>= -85.0 dBmW

< -85.0 dBmW

Display threshold level: -98.0 dBmW
RX Antenna - Type: ISOTROPIC
Height: 5.0 ft AGL Gain: 0.00 dBi

MILES

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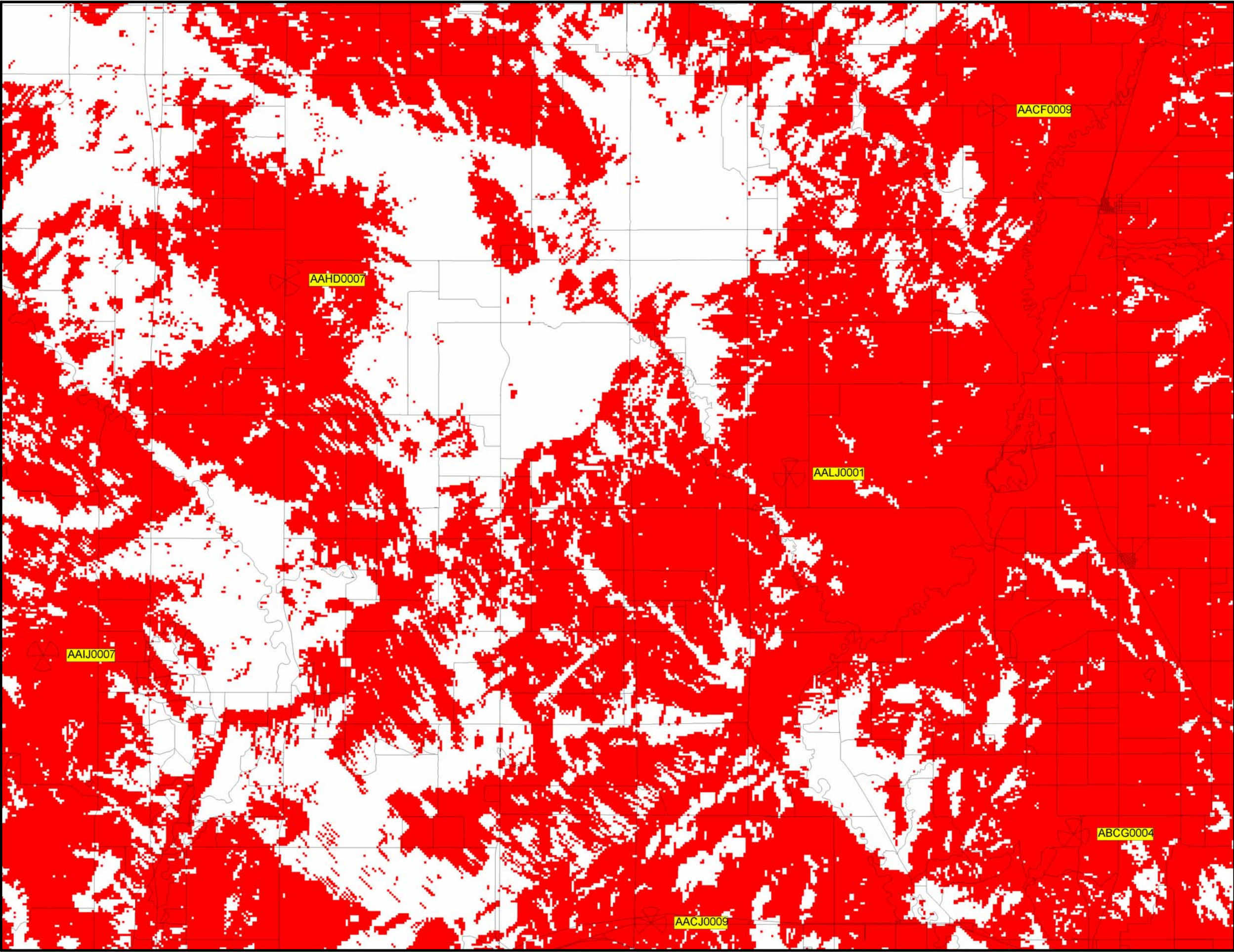
MRL

Monte R. Lee & Company
Consulting Engineers
Oklahoma City, OK

Sample Coverage

LTE Downlink Coverage

Monte R. Lee & Co. 2/10/17



EDX® SignalPro®: Sample Coverage

Prop. model 1: Anderson-2D v1.00
Time: 95.0% Loc.: 95.0%
Prediction Confidence Margin: 0.0dB
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Census Blocks

Received Power at remote

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Display threshold level: -98.0 dBmW
RX Antenna - Type: ISOTROPIC
Height: 5.0 ft AGL Gain: 0.00 dBi

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-1 0 4

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Monte R. Lee & Company
Consulting Engineers
Oklahoma City, OK

Sample Coverage

LTE Downlink Coverage

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